

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**MICHAEL A. ALLEN, JR. and
SHEILA JONES,**

Plaintiffs,

v.

**GEORGE GILLENWATER,
JEREMY JONES, D.E. YOUNG,
DET. TUNSTALL, WILLIAM
KELLY, G.A. HARRIS, and
ROBERT VOORHEES,**

Defendants.

1:10CV359

**INITIAL PRETRIAL CONFERENCE
MEMORANDUM, ORDER AND RECOMMENDATION**

The parties in the above-entitled action appeared before the Court on November 30, 2010, for an initial pretrial conference and hearing on Defendants' motion to dismiss (Docket No. 21) and Plaintiffs' motions to amend (Docket Nos. 17, 19). Plaintiffs appeared *pro se*, and attorney Kari R. Johnson appeared as counsel for Defendants.

Plaintiffs' motions to amend are denied because they do not seek to amend any pleading as allowed by the Federal Rules of Civil Procedure. Rather, Plaintiffs' motions seek to, for example, improperly seek discovery or improperly attach documents to the Complaint. (See Docket Nos. 17, 19.)

Defendants' motion to dismiss is directed only to the claim of Plaintiff Sheila Jones. (Docket No. 21.) The only claim of Ms. Jones identifiable in Plaintiffs' Complaint is that officers of the Rockingham Police Department entered her home without probable cause. (Docket No. 1 at 3.) This claim fails to meet the pleading standard of Fed. R. Civ. P. 8. *See Ashcroft v. Iqbal*, 556 U.S. ___, ___, 129 S. Ct. 1937, 1949 (2009) (sufficient factual information required to state a claim to relief that is plausible on its face). Accordingly, Defendants' motion to dismiss the claim of Ms. Jones should be granted. Ms. Jones may file an amended complaint curing the deficiency as to this claim on or before December 31, 2010. Within that same time period, Ms. Jones may also file a motion for leave to amend her complaint to add other claims.

IT IS THEREFORE ORDERED that the standard discovery track applies with the exceptions that the parties are allowed to conduct discovery for 4 months beginning on March 1, 2011, and the parties may serve 25 interrogatories per side.

IT IS RECOMMENDED that Defendants' motion to dismiss the claim of Plaintiff Sheila Jones (Docket No. 21) be granted. Ms. Jones may file an amended complaint and motion for leave to file an amended complaint as set out above on or before December 31, 2010.

IT IS FURTHER ORDERED that Plaintiffs' motions to amend (Docket Nos. 17, 19) are **DENIED**.

This the 6th day of December, 2010.

/s/ P. Trevor Sharp

United States Magistrate Judge